

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS ZERMANI,
JAMES GROVES,
and BRIAN FOLEY

Appeal 2006-2578
Application 09/811,970
Technology Center 1700

Decided: April 6, 2007

Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and
LINDA M. GAUDETTE, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134 from the final rejection of claims 1, 11, 16, 24, and 26. We have jurisdiction under 35 U.S.C. § 6.

We AFFIRM.

The Appellants invented a filtration device. With reference to Figure 2, the device comprises at least one plastic well 14 having one or more holes in the bottom thereof, a filter 12 positioned against the bottom of each well and a continuous roll of inner wall material 11, 13 of the well positioned against a top 15 of the filter to hold the filter in place. The filtration device is defined in representative independent claim 1 as follows:

1. A filtration device comprising at least one well, each well having an open top and a closed bottom having one or more holes which allow liquid to pass through and an inner wall, at least one piece of filter positioned within each well and against the bottom of each well and a continuous roll of inner wall material of the well positioned against a top of the filter to hold the at least one filter piece in place and said well being formed of a plastic.

The prior art relied upon by the Examiner in the § 102 and § 103 rejections before us are set forth below:

Bowers	US 5,108,704	Apr. 28, 1992
Aysta	US 5,264,184	Nov. 23, 1993

Claims 1, 11, 16, and 26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bowers, and claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Bowers in view of Aysta.¹

¹ Only independent claims 1 and 26 have been separately grouped and argued by Appellants (Br. 3, 4, 6). Accordingly, the dependent claims on appeal, including separately rejected claim 24, will stand or fall with these independent claims.

The Examiner finds the independent claim limitation “a continuous roll of inner wall material of the well” (claims 1, 26) positioned against a top of the filter to hold the filter in place is satisfied by shoulder 17 (Figures 10, 11) of Bowers’ filtration device (Answer 4, 6).

With respect to both the § 102 and § 103 rejections, the Appellants present the following argument.

[T]he Figure cited for support in the office action is Figure 11. In this embodiment, Bowers clearly and specifically teaches that it is the annular element 96, the bottom of which is applied to the upper surface of the filter 70 to hold the filter 70 in place. (Column 8, lines 48-63 of Bowers). Nowhere does Bowers teach that the shoulder 17, which is located some ways up the side of the inner wall, holds the filter in place. Bowers clearly and unequivocally teaches and shows to the contrary that the bottom surface of the annular element of the upper plate performs this function. As this feature as well as the shoulder feature itself is not a continuous roll of inner wall material as required by the claims, Bower fails to teach the claimed element and is not an anticipatory reference.

Brief 4, *see also* 6.

On this record, there are no disputed findings of fact concerning the teachings of Bowers. The only dispute is whether the shoulders of Bowers satisfy the “continuous roll” requirement of the independent claims.

ISSUE

Is the “continuous roll of inner wall material of the well” requirement of the independent claims satisfied by the shoulder 17 feature of Bowers’ filtration device?

PRINCIPLE OF LAW

During examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ 1664, 1667 (Fed. Cir. 2000).

ANALYSIS

As indicated previously, it is undisputed that Bowers discloses a filtration device having wells comprising annular members 96 with shoulders 17 that are positioned against a top of filter 70 to hold the filter in place (Fig. 11; col. 8, ll. 48-63). These shoulders, like Appellants' rolls or mechanical interlocks, are continuous in that they extend circumferentially around the inner perimeter of the wells (*id.*). Also like Appellants' rolls or mechanical interlocks, the shoulders constitute the inner wall material of Bowers’ wells (*id.*).

As for the claim term "roll," we observe that Appellants' Specification discloses holding the well filter in place with a mechanical inner lock comprising a portion of the well inner wall which has been skived and rolled on top of the filter (Specification 3, last para.). With reference to Figure 4, the Specification also discloses the formation of a continuous roll 34 (Specification 6, 3rd para.) which is depicted in the Figure as skived wall material rolled up on the form of a cylinder. Finally, the Specification

teaches forming the interlock with a heated skive device which softens the wall material in order to "make it flow as a continuous piece in forming the interlock" (Specification 7, 1st full para.).

The term "roll" possesses a number of definitions. For example, "roll" is defined as "[s]omething rolled up in the form of a cylinder ... [as in] a *roll* of masking tape" (*Webster's II New Riverside University Dictionary*, 1984, pages 1016-17). This definition applies to the roll 34 depicted in Appellants' Figure 4. As another example, "roll" is defined as "[a] gentle swell or undulation of a surface ... [as in] the roll of the prairie" (*id.*). This definition applies to the interlock embodiment described in the first full paragraph on Specification 7.

The last mentioned definition also is applicable to shoulder 17 in the wells of Bowers' filtration device. As shown in Figure 11 of the Bowers patent, shoulder 17 constitutes a gentle swell or undulation of the surface of annular member 96. Therefore, the surface of this annular member may be accurately described as containing a "roll" in the form of shoulder 17.

Because the interlock embodiment described on Specification 7 falls within the aforementioned definition of the term "roll," it is reasonable and consistent with the Specification to broadly interpret the claim term "roll" as encompassing a gentle swell or undulation of a surface of the type depicted as shoulder 17 in Figure 11 of Bowers. *Hyatt*, 211 F.3d at 1372, 54 USPQ2d at 1667.

LEGAL DETERMINATION

The independent claim limitation "a continuous roll of inner wall material of the well" encompasses, and therefore is satisfied by, shoulders 17 of Bowers' filtration device.

Therefore, we sustain the Examiner's § 102 rejection of claims 1, 11, 16, and 26 as being anticipated by Bowers as well as the § 103 rejection of claim 24 as being unpatentable over Bowers in view of Aysta.

ORDER

The decision of the Examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(iv)(effective Sept. 13, 2004).

AFFIRMED

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